

in Support of its Motion for Partial Summary Judgment [Dkt. # 93] at pp. 48-52, n. 20 and Plaintiff's Supp. Exh. 36. The nature of their claims are statutory, and neither the WAP, nor the WAP Committee can provide the relief requested by them in this lawsuit. Accordingly, compliance with the WAP's administrative claims procedure is unnecessary, fruitless, or has been satisfied, excused or otherwise waived by RBC. *See*, Exhibit "A" attached hereto.

III.

Pursuant to Fed. R. Civ. P. 10(c), Neuhaus and Gift, as joined, incorporate by reference all motions, pleadings (including, but not limited to, Plaintiff's First Amended Class Action Complaint (filed April 7, 2011) [Dkt. #24]), and arguments made by Plaintiff Brenda Tolbert in this case.

IV.

For the reasons discussed above, Plaintiff Brenda Tolbert, together with Neuhaus and Gift, request that this Court grant this Motion to Join Parties Plaintiff, and for such other and further relief, both at law and in equity, general or special, to which they show themselves to be entitled.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

By: /s/ Geoffrey H. Bracken

Geoffrey H. Bracken

State Bar No. 02809750

J. Palmer Hutcheson

State Bar No. 10335500

1000 Louisiana, Suite 3400

Houston, Texas 77002-5007

Telephone: 713.276.5739

Facsimile: 713.276.6739

By: /s/ William G. Whitehill

William G. Whitehill
State Bar No. 21356550
Joe B. Harrison
State Bar No. 09115500

1601 Elm Street, Suite 3000
Dallas, Texas 75201
Telephone: 214.999.4633
Facsimile: 214.999.3633

**ATTORNEYS FOR BRENDA TOLBERT,
JOSEPH RICE NEUHAUS, JR. AND
LAWRENCE GIFT, JR.**

CERTIFICATE OF CONFERENCE

The undersigned counsel has previously conferred with opposing counsel, Sari M. Alamuddin, concerning the relief sought in this Motion, and was advised that Defendants oppose the same.

/s/ Geoffrey H. Bracken

Geoffrey H. Bracken

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this documents was served on Defendants' counsel *via* the Court's electronic filing system this 7th day of March, 2012.

Alison J. Gates
Morgan, Lewis & Bockius LLP
1000 Louisiana, Suite 4200
Houston, Texas 77002
713-890-5157 (telephone)
713-890-5001 (facsimile)

Sari M. Alamuddin
Christopher J. Boran
Morgan, Lewis & Bockius LLP
77 West Wacker Drive, Fifth Floor
Chicago, Illinois 60601
312-324-1000 (telephone)
312-324-1001 (facsimile)

/s/ Geoffrey H. Bracken

Geoffrey H. Bracken